



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	05/06/99	Bill No:	AB 1077
Tax:	Sales and Use	Author:	Cardoza, et al.
Board Position:	Support	Related Bills:	SB 256

BILL SUMMARY:

This bill would provide a sales and use tax exemption for sales and purchases of newspapers and photographs transferred under specified conditions for reproduction in a newspaper.

ANALYSIS:

Current Law:

Under existing law, Section 6362.7 of the Revenue and Taxation Code (operative November 1, 1992) provides an exemption for the sale and purchase of materials (for example, newsprint and ink) becoming a part of a *free* newspaper or periodical and also provides an exemption for any sale or purchase of any such newspaper or periodical (e.g., a printer's charge to a client for the production of a newspaper or periodical would be exempt from tax when that newspaper or periodical is subsequently distributed free of charge).

Section 6362.7 also provides an exemption for the sale and purchase of periodicals (publications appearing at stated intervals of at least 4, but not more than 60, times a year) sold by subscription and delivered by mail or by common carrier.

In addition, Section 6362.8 of the Revenue and Taxation Code (operative November 1, 1991, and subsequently amended operative November 1, 1992) provides an exemption for the sale and purchase of newspapers and periodicals and their parts with respect to *any* of the following:

- The newspaper or periodical is published or purchased by a nonprofit organization under Section 501 (c)(3) of the Internal Revenue Code and is distributed to members of the organization in consideration of payment of the organization's membership fee, or to the organization's contributors.
- The newspaper or periodical is published by a nonprofit organization under Section 501 (c)(3) of the Internal Revenue Code that does not receive revenue from, or accept, any commercial advertising.
- A newspaper or periodical distributed by a nonprofit organization in consideration, in whole, or in part, of payment of the organization's membership fee, and the amount

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incurred or paid by the organization for the printing costs is less than 10 percent of the membership fee attributable to the period for which the newspaper or periodical is distributed.

All remaining transactions involving sales and purchases of newspapers and periodicals are currently subject to tax (unless otherwise exempt under other general statutory provisions). For example, all daily newspapers (other than free ones), whether sold by subscription or not, are subject to tax. In addition, any periodical purchased by means other than through a subscription (i.e., from a newsstand, grocery store, etc.) is subject to tax.

Proposed Law:

This bill would add Section 6362 to provide a sales and use tax exemption for the sale and use of any newspaper regularly issued at average intervals not exceeding three months or any tangible personal property that becomes an ingredient or component part of the newspaper.

In addition, the bill would provide a sales and use tax exemption for the sale or use of photographs, whether or not the photograph is produced to special order, when the possession, but not the title, of the photograph is transferred for the purpose of being reproduced one time only in a newspaper, as specified.

The provisions of the bill would become operative on the first day of the calendar quarter commencing more than 90 days after the bill is enacted.

Background:

For a 46-year period that ended July 15, 1991, the sale and purchase of newspapers and periodicals, and their ingredient and component parts, benefited from an exemption from the sales and use tax. This exemption was repealed in its entirety operative July 15, 1991 with the enactment of AB 2181 and SB 179 (Chs. 85 and 88, respectively). Since then, the exemptions for free newspapers and periodicals, subscription sales of periodicals, and certain publications distributed by nonprofit organizations have been enacted.

AB 2181 and SB 179 (SB 179 was a trailer bill that made the provisions of AB 2181 operative July 15, 1991) were enacted as part of the Governor's plan to close the budget gap at that time. In addition to the repeal of the newspaper and periodical exemption, these measures did the following:

- Increased the state sales and use tax rate by 1 1/4 percent
- Repealed the sales and use tax exemptions for candy, chewing gum and snack food
- Repealed the sales tax exemption for fuel and petroleum products sold to air, water, and rail common carriers
- Repealed the sales and use tax exemption for bottled water
- Reduced the rate of credit interest paid by the Board on overpayments of tax.

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Since that time, the exemptions for candy, chewing gum, snack food, bottled water, and fuel and petroleum products sold to water common carriers have all been fully restored. Therefore, of the exemptions that were repealed in 1991 by AB 2181 and SB 179, only the newspaper and periodical exemption has been partially restored, and the fuel and petroleum products exemption for air and rail common carriers has remained repealed in its entirety.

During the 1997-98 Legislative Session, two similar measures were considered by the Legislature: AB 1608 (Pringle, et al.) was held in the Senate Appropriations Committee, and AB 2081 (Villaraigosa) was held in the Assembly Appropriations Committee.

COMMENTS:

1. **Sponsor and purpose of the bill.** The purpose of this measure is to restore the exemption for sales and purchases of newspapers. The sponsor of this measure is the California News Publishers Association.
2. **Retailers selling over-the-counter publications would be required to make distinctions as to the taxability of publications.** The bill would restore the exemption for the sale of any newspaper, provided it is issued at average intervals not exceeding three months. However, single copy sales of *periodicals* would remain taxable. While the term “newspaper” may seem simplistic, it can often be confused with publications that don’t have an appearance of a typical newspaper, but have news of general interest. *Webster’s* defines “newspaper” as a publication regularly printed and distributed, usually daily or weekly, containing news, opinions, advertisements, and other items of general interest. This definition could include a wide variety of publications, including weekly magazines. A definition of the term should therefore be incorporated into the bill consistent with the author’s intent.

COST ESTIMATE:

The costs associated with this measure would include notifying affected taxpayers and Board staff and revising the Board’s regulation. An estimate of this cost is pending.

REVENUE ESTIMATE:

According to information from the California Newspaper Publishers Association (CNPA) and from information filed with the Board, it is estimated that current taxable sales of newspapers and photographs for one-time use are \$538.5 million annually. This includes both subscription newspapers sales and single copy sales. The annual revenue loss from exempting the \$538.5 million from the sales and use tax would be as follows:

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	<u>Revenue Effect</u>
State loss (5%)	\$26.9 million
Local loss (2.25%)	12.1 million
Transit loss (0.67%)	<u>3.6 million</u>
Total	<u><u>\$42.6 million</u></u>

Analysis prepared by:	Sheila T. Sarem	445-6579	05/07/99
Revenue estimate by:	David E. Hayes	445-0840	
Contact:	Margaret S. Shedd	322-2376	

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